

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7752

Petition of Vermont Transco LLC and Vermont Electric)
Power Company, Inc. (together referred to as)
"VELCO"), for authority to condemn easement rights in)
property interests of Olga Julinska, Sergei Kniazev,)
Carver Federal Savings Bank and BNE Energy, Inc.,)
located in Wells, Vermont, for the purpose of)
reconstructing and maintaining an existing)
telecommunications facility for the so-called Statewide)
Radio Project (SRP))

Order entered: 10/18/2011

SECOND SCHEDULING ORDER

On October 7, 2011, the Vermont Department of Public Service (the "Department") submitted a request to modify the existing procedural schedule that was established for this docket by Order dated September 23, 2011. Specifically, the Department sought to extend to filing deadlines and to obtain "official permission from the Board to allow for site access for the DPS siting expert, James Irish on Friday, 10/21/11."¹ On October 11, 2011, Vermont Electric Power Company, Inc. ("VELCO" or the "Company"), filed a response to the Department's request to amend the procedural schedule. VELCO objected to the Department's request to extend its time for filing discovery responses but indicated its willingness to accommodate the Department's request for more time to file direct testimony. To that end, VELCO suggested alternative new dates for some of the Department's proposed deadlines, as well as other related changes to the schedule. In its filing, VELCO represented that it had shared its proposed

1. *Letter from Jeanne Elias, Esq., on behalf of the Department to Susan M. Hudson, Clerk of the Board*, dated October 7, 2011 at 1. The Department has since withdrawn its request for an order authorizing entry upon the proposed condemnation site in Wells, Vermont. *Electronic Mail from Jeanne Elias, Esq., on behalf of the Department to Susan M. Hudson, Clerk of the Board*, dated October 16, 2011. Accordingly, this Order does not address this issue, as it is now moot.

schedule revisions with the other parties, neither of whom had any objection.² Having considered the scheduling requests of the Department and VELCO's response, I adopt the following revised schedule:

August 23, 2011	Discovery period begins. Discovery may be served at any time. Interrogatories, requests to admit and requests to produce must be answered within 10 business days of service. Depositions may be taken upon reasonable notice, but in any case not with less than 10 business days' notice before the date of deposition.
September 12, 2011	Deadline for filing intervention motions.
September 29, 2011	Site visit in Wells, Vermont.
November 4, 2011	Department to file direct testimony as contemplated in 30 V.S.A. § 111(a) regarding: (1) the need for the acquisition proposed by VELCO; (2) any alternatives to the acquisition; (3) its recommendations on the acquisition; and (4) any agreements or stipulations with respect to the acquisition.
November 18, 2011	VELCO to file its Appraiser's report and accompanying prefiled testimony.
Week of November 28, 2011	Technical hearing on necessity, orderly development and scenic preservation.
December 2, 2011	Landowners' witnesses to file direct testimony as contemplated in 30 V.S.A. § 112(4) regarding the value of the compensation to be paid for the property rights proposed for condemnation. VELCO may depose Landowners' valuation witnesses.
December 9, 2011	Discovery period ends, including VELCO's opportunity to depose Landowners' valuation witnesses.
Week of December 12, 2011	Technical hearings on valuation.

2. Letter from Leslie A. Cadwell, Esq., on behalf of VELCO, to Susan M. Hudson, Clerk of the Board, dated October 11, 2011, at 1 (the "VELCO" letter).

December 21, 2011 All parties file direct briefs.

January 6, 2012 All parties file reply briefs.

I turn now to the Department's request — which VELCO opposes — to extend the time for responding to the Company's first round of discovery requests until October 13, 2011.³ I decline to act on the Department's extension request. Pursuant to V.R.C.P. 26(h), counsel for the parties are required to "make good faith efforts among themselves to resolve or reduce all differences relating to discovery procedures and to avoid filing unnecessary motions." In seeking a unilateral modification of the discovery response deadline, the Department has provided no basis for me to determine whether the requirements of Rule 26(h) have been met.

In opposing the Department's discovery extension request, VELCO has indicated that the Department's delay in responding to the Company's discovery questions is hampering VELCO's ability to prepare its case regarding the valuation of the property interest it is seeking to condemn.⁴ However, with support from all of the parties, VELCO has proposed a reasonable remedy for this alleged prejudice, namely, an extension of its deadline to file its appraisal report until November 18, 2011. I have accepted VELCO's proposed remedy.

SO ORDERED.

3. Without explanation, the Department filed its discovery extension request with the Board on October 7, 2011 — over a week after September 28, 2011, which is when the Department's responses were due to be served on VELCO under the 10-business-day turnaround rule set forth in the procedural Order dated September 23, 2011.

4. VELCO Letter at 1.

Dated at Montpelier, Vermont, this 18th day of October, 2011.

s/June E. Tierney
June E. Tierney, Esq.
Hearing Officer

OFFICE OF THE CLERK

FILED: October 18, 2011

ATTEST: s/Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)